IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE PIUS C.KURIAKOSE

WEDNESDAY, THE 22ND AUGUST 2007 / 31ST SRAVANA 1929

RP.No. 772 of 2007(L)

JUDGEMENT IN OP.534/2001 Dated 02/03/2007

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REVIEW PETITIONERS/RESPONDENTS

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1. KERALA STATE ELECTRICTIY BOARD,
   VYDHYUTHI BHAVAN, PATTOM,
   THIRUVANANTHAPURAM.

2. DEPUTY CHIEF ENGINEER,
   ANTI POWER THEFT SQUAD,KERALA STATE ELECTRICITY
   BOARD, VYDHYUTHI BHAVAN, PATTOM,
   THIRUVANANTHAPURAM.

3. ASSISTANT EXECUTIVE ENGINEER,
   ELECTRICAL MAJOR SECTION,
   KUTHIATHODE.

BY ADV. SRI.C.K.KARUNAKARAN, SC FOR KSEB

RESPONDENT: PETITIONER

SADASIVAN NAIR,
EDISON BUILDINGS,T.C. NO. 3/1717,
KESAVADASAPURAM,
THIRUVANANTHAPURAM.

BY ADV. SRI.P.B.SURESH KUMAR

THIS REVIEW PETITION HAVING COME UP FOR ADMISSION ON 22/08/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

PIUS C. KURIAKOSE, J.

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R.P.NO.772 OF 2007 IN
O.P.No.534 OF 2001

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DATED THIS THE 22nd AUGUST, 2007

O R D E R

Heard Sri.C.K.Karunakaran, learned Standing Counsel for the Kerala State Electricity Board and Sri.P.B.Suresh Kumar, learned counsel for the respondent.

2. Inviting my attention to Section 26(6) of the Indian Electricity Act 1910, Mr.Karunakaran would submit that the question of reference to the Electrical Inspector will arise only in cases where a dispute or difference arises between the parties as to whether the meter is faulty. According to the learned Standing Counsel, no such dispute has arisen in this case. Mr.Karunakaran would place reliance on the judgment of the Supreme Court in **Tata Hydro-Electric Power Supply Co. Ltd. v. Union of India** [(2003) 4 SCC 172, para.16] and argue that it is an essential pre-requisite for referring the issue whether a meter is faulty to the Electrical Inspector that a dispute has arisen. Stressing on the word "where", Mr.Karunakaran would draw my attention to the definition to that word given in Black's Law Dictionary and submit that it means: 'in the case of, in the event that' etc. In short, the argument of the learned Standing Counsel was that

the question of reference can arise only in situations where dispute has arisen between the parties.

3. Meeting the above arguments, my attention was drawn by Mr.P.B.Suresh Kumar to the judgment of the Supreme Court in **M.P.E.B. v. Basantibai** (AIR 1988 SC 71) which was in fact considered by me in the judgment sought to be reviewed. Counsel submitted that the enquiry need only be whether a dispute has actually arisen and not whether anybody has formally raised such a dispute.

4. Mr.Karunakaran would then focus on the second limb of Section 26(6) of the Indian Electricity Act, 1910 and submit that at any rate the writ petitioner who is the aggrieved party has not made an application for reference. Mr.Suresh Kumar would respond by inviting my attention to the judgment of the Division Bench of this Court in **Nirmala Metal Industries v. K.S.E.B.** (2006 (3) KLT 465) wherein, at para.8, their Lordships have indicated that in situations where there is a dispute as to whether the meter is faulty, if the Board wants to raise a bill on the reason that the meter is defective, then it is for the Board to take appropriate action in terms of Section 26 of the Act.

5. Having considered the rival submissions addressed at the Bar, I do not find any reason for reviewing my judgment, within the contours of this Court's jurisdiction for reviewing its own orders. The Review Petition fails and the same will stand dismissed.

(PIUS C.KURIAKOSE, JUDGE)

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